

Delegated Report

Planning Ref: 24/00705/TPO

Applicant: Charlotte Brodie

Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: 2 Church Lane Ratcliffe Culey Witherley

Proposal: T1 - Yew - Laterally prune the upper western crown to clear the building by 1.00 metre

1. Recommendations

1.1. Grant consent subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks consent to laterally prune the upper western crown of the Yew tree (T1) by 1.00 metre at 2 Church Lane, Ratcliffe Culey.

3. Description of the site and surrounding area

- 3.1. The application site relates to a two-storey detached dwelling, situated within, but to the edge of the settlement boundary of Witherley. The dwelling is situated in a small inset to the side of Church Lane, a single-lane road which leads to All Saints' Church.
- 3.2. The Yew tree (T1) is situated to the front (east) of the site and borders the adjacent highway, Church Lanes boundary. To the north, east and west of the site is residential, and to the south of the site sits All Saints Church and Churchyard, a Grade II* listed building reference 1188508 and agricultural fields.
- 3.3. The Yew tree (T1) is protected by The Borough Council of Hinckley and Bosworth (2 Church Lane, Ratcliffe Culey, Witherley) (No.12) Tree Preservation Order 2023 (Reference; 23/00012/TPORD).

4. Relevant planning history

- None relevant.

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. No objections have been received.

6. Consultation

6.1. Witherley Parish Council:

- No objections have been received.

7. Policy

7.1. Core Strategy (2009)

- Policy 12: Rural Villages

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

8. Appraisal

8.1. Key Issues

- Impact upon the amenity of the area
- Whether the application is justified

Impact upon the amenity of the area

8.2 Policy DM10 of the SADMP requires that consideration be given to the impact of the proposal on amenity and the character of the surrounding area. The Yew tree (T1) is subject to a tree preservation order and are therefore considered to have a high level of amenity value.

8.3 Paragraph 136 of the National Planning Policy Framework (NPPF) (2023) seeks to ensure that existing trees that make an important contribution to the character and quality of urban environments are retained wherever possible.

8.4 The application seeks consent to laterally prune the upper western crown of the Yew tree (T1) by 1.00 metre at 2 Church Lane, Ratcliffe Culey. The Yew tree (T1) is situated to the front (east) of the site is highly viewable from a public realm as it borders the adjacent highway, Church Lanes boundary.

8.5 Notwithstanding the high visibility of the tree the Local Planning Authority have assessed the proposed works and can conclude that the works will not have an adverse impact upon the amenity of the area. The proposed works will not result in the damage or loss of a protected tree and therefore complies with paragraph 136 of the National Planning Policy Framework (NPPF) (2023).

8.6 The Local Planning Authority therefore deems the amended proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

8.7 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees. The proposed works to the Yew tree (T1) are required in order to negate the risk of damage through the movement of branches against the brickwork or parts of the roof.

8.8 The works have been evidenced within the submitted Tree Assessment Report.

- 8.9 By virtue of the above it is not considered that the work would have a significant impact upon public amenity and is therefore acceptable.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

- 9.3 There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. In conclusion the proposed works to the Yew tree (T1) are considered to be acceptable. The Local Planning Authority is satisfied that the proposed works to the trees are necessary and that the works will ensure that amenity of the area is retained. The proposal is therefore in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and paragraph 136 of the NPPF. As a result, the application should be approved with conditions set out below.

11. Recommendation

- 11.1 **Grant consent** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

1. The approved works shall only be carried out in accordance with British Standards Recommendations for Tree work - BS 3998:2010.

Reason: To ensure that the works are carried out in a way that safeguards the health and amenity of the tree in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and paragraph 136 of the NPPF.

2. The works to which this consent relates shall be completed within two years from the date of this consent.

Reason: In accordance with the provisions of the Town and Country Planning (Tree Preservation) Regulations 2012.

3. The proposed works to the Yew tree (T1) shall be restricted to the lateral pruning of the upper western crown to clear the building by 1.00 metre only.

Reason: To ensure that the works are carried out in a way that safeguards the health and amenity of the trees in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and paragraph 136 of the NPPF.

11.3 Notes to applicant

- It is a criminal offence to damage or destroy a bat roost. Therefore, if the tree is mature and has hollow cavities and / or is covered with ivy, or has suitable places in which bats might roost, we recommend that it be surveyed for bats before any work is carried out to the tree. All birds, their nests and eggs are protected by the Wildlife and Countryside Act. We recommend that work to trees is done outside the bird-nesting season - i.e between the end of August and beginning March. If work to the tree is to be undertaken during the bird breeding season, we recommend that a suitably qualified ecologist surveys the tree for nesting birds. If nesting birds are present, work must be postponed until the young have left the nest.
- You are advised that the consent is valid for a period of two years commencing from the date permission is granted, the works for this consent may only be carried out once unless stated otherwise by condition.
- It is necessary, when carrying out works to tree(s) to be aware of the WILDLIFE AND COUNTRYSIDE ACT, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such wild bird. The times when birds are nesting is generally between the months of March to September inclusive.
- You are advised that if a tree in a conservation area is removed, uprooted or destroyed the landowner is placed under a duty to plant another tree of an appropriate size and species at the same place as soon as he or she reasonably can.